

Amendment Under 37 C.F.R. § 1.111
USSN 09/425,739

Remarks

The Amendment to the Specification

As a preliminary matter, Applicants note that the second paragraph of the specification is amended herein to reflect the claim to priority to U.S. Application No. 09/390,025, which was made in the Declaration and Power of Attorney filed concurrently with the filing of the present application on October 22, 1999. A copy of the Declaration and the date-stamped filing receipt evidencing its filing are enclosed herewith. The second paragraph of the specification is further amended herein to reflect the new attorney docket numbers of the related applications as a result of these applications being transferred to Patton Boggs LLP for prosecution. These amendments do not add any new matter.

Applicants note that the related applications cited in the second paragraph of the specification are commonly owned by InPhonic, Inc., as a result of a name change of TelecomXchange, Inc. to Simplexity, Inc. and a transfer of ownership from Simplexity, Inc. to InPhonic, Inc. on February 26, 2002. Documentation to this effect will be submitted as soon as it is available.

The Rejections Under 35 U.S.C. § 103

Claims 1-3 and 7-9 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 6,131,087 (Luke et al.), and claims 4-6 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Luke et al. in view of U.S. Patent No. 5,905,975 (Ausebel). Applicants respectfully traverse the present rejections and request the withdrawal thereof for at least the reasons set forth below.

The claimed invention relates to a method for distributing telecommunication services, in which a purchaser of such services inputs a purchase request, a stored set of responses capable of satisfying the requested telecommunication service are accessed, and the requester is permitted to

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accept the response during the same session (Claims 1-7 and 9). The claimed invention further relates to telecommunication service-providing systems, which include (1) a server having access to a memory containing a set of response to purchase requests, and (2) a client to establish a session for (i) inputting a purchase request, (ii) accessing the stored set of responses to purchase requests for at least one response reflecting at least one telecommunication service offering capability of satisfying the requested service, and (iii) providing an acceptance to the response during the session (Claim 8). Luke et al. does not teach or suggest the presently claimed customer-oriented methods and systems.

In particular, as the Examiner recognizes, Luke et al. neither teaches nor suggests methods for distributing telecommunication services. The present method is not a new use of an old method as the Examiner purports, but rather is a different method altogether, which is unique to the problems and issues associated with telecommunication services. Issues common with telecommunication services include, for example, sellers actively soliciting buyers by such methods as door-to-door sales and telemarketing, at a time when the buyer may not be ready to purchase the services. In such cases, the sellers typically control the process over potentially less sophisticated buyers, and it is difficult for a buyer to obtain the best possible deal. Luke et al. neither teaches nor suggests the presently claimed customer-driven method in which (1) the buyer makes a purchase request for telecommunication services, (2) the buyer receives one or more responses from service providers who have indicated (in response to that particular request, in response to similar requests, or independent of any request) that they are capable of and willing to provide the requested services, and (3) the buyer has the option of accepting at least one of the responses during the same session. Luke et al. teaches none of these aspects of the claimed invention. Luke et al. merely provides two databases with various data points, which are compared to find as many close matches as possible between vendors of fungible goods and sellers. For at least these reasons, Applicants respectfully submit that none of claims 1-3 and 7-9 is obvious in view of Luke et al.

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Applicants further submit that Ausebel does not make up for the deficiencies of Luke et al. In particular, Ausebel relates to improving auctions, which is a seller-driven process. Like Luke et al., the Ausebel reference neither teaches nor suggests a customer-driven system for telecommunication services. Accordingly, Applicants respectfully submit that claims 4-6 are not obvious over Luke et al. in view of Ausebel.

Because Luke et al. neither teaches nor suggests the claimed methods and systems, either alone or in combination with Ausebel, Applicants respectfully submit that the present invention is not obvious over these references. Accordingly, withdrawal of the present rejections is respectfully requested.

The present application is believed to be in condition for allowance. Should the Examiner not deem the present application in condition for allowance, the Examiner is invited to contact the undersigned by telephone at (703) 744-8029 to discuss any matter relating to this application.

A marked up version of the amendments made herein is attached hereto and entitled "Version With Markings to Show Changes Made."

Dated: December 17, 2002

Respectfully submitted,

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Version With Markings to Show Changes Made

In the Specification:

The second full paragraph on page 1 of the specification is amended herein as follows:

“This application is related to copending U.S. Application Serial No. 09/390,026 (atty. Docket No. [7710.0001-00] 020748.0103), entitled “Systems and Methods For Buying and Selling Telecommunication Services Via a Network,” [and copending U.S. Application Serial No. 09/390,025 (Atty. Docket No. 7710.0002-00), entitled “Systems and Methods For Aggregating Buyers For the Purchase of Telecommunication Services Via a Network,” which are assigned to the same, are also incorporated herein by reference.] which is incorporated herein by reference. This application claims priority to U.S. Application Serial No. 09/390,025 filed on September 3, 1999, (Atty. Docket No. 020748.0102), entitled “Systems and Methods For Aggregating Buyers For the Purchase of Telecommunication Services Via a Network,” which is incorporated herein by reference.”

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare my residence, post office address and citizenship is stated below next to my name; I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **SYSTEMS AND METHODS FOR DISTRIBUTING TELECOMMUNICATION SERVICES VIA A NETWORK**, the specification of which ☒ is attached and/or ☐ was filed on _____ as United States Application Serial No. _____ or PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT international application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT International application(s) having a filing date before that of the application(s) of which priority is claimed:

| Country | Application Number | Date of Filing | Priority Claimed Under 35 U.S.C. |
|---------|--------------------|----------------|--|
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| Application Number | Date of Filing |
|--------------------|----------------|
| | |
| | |

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT International filing date of this application:

| Application Number | Date of Filing | Status (Patented, Pending, Abandoned) |
|--------------------|-------------------|---------------------------------------|
| 09/390,025 | September 3, 1999 | Pending |
| 60/138,509 | June 10, 1999 | Pending |

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsvold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Heftner, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zotter, Reg. No. 27,680; Dennis P. O'Reilly, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695; Robert D. Bajefsky, Reg. No. 25,387; Richard L. Stroup, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,619; Charles E. Lipsey, Reg. No. 28,165; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewis, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,907; Richard B. Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Mullen, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,413; Roger D. Taylor, Reg. No. 28,992; David M. Kelly, Reg. No. 30,953; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einaudi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,964; Richard V. Burgujian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,824; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,616; Bryan C. Dimer, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanhon Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; James W. Edmondson, Reg. No. 33,871; Michael R. McGurk, Reg. No. 32,045; Joann M. Neth, Reg. No. 36,363; Gerson S. Panitch, Reg. No. 33,751; Cheri M. Taylor, Reg. No. 33,216; Charles E. Van Horn, Reg. No. 40,266; Linda A. Wadler, Reg. No. 33,218; Jeffrey A. Berkowitz, Reg. No. 36,743; Michael R. Kelly, Reg. No. 33,921; and James B. Monroe, Reg. No. 33,971; and _____ Please address all correspondence to FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P. 1300 I Street, N.W., Washington, D.C. 20005, Telephone No. (202) 408-4000.

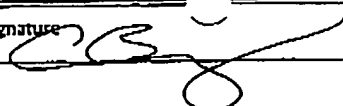

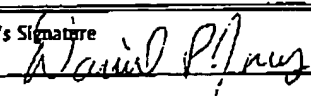
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

| | | |
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Listing of Inventors Continued on Page 2 hereof. ☒ Yes ☐ No

July 1999

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| Post Office Address | | |
| Full Name of Eighth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Ninth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |

Listing of Inventors Continued on Page 2 hereof. ☒ Yes ☐ No

July 1999

Received from < > at 1/17/03 4:05:33 PM [Eastern Standard Time] FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

JAB

PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

Title: **SYSTEMS AND METHODS FOR DISTRIBUTING
TELECOMMUNICATION SERVICES VIA A NETWORK**

Inventors: Charles A. PEYSER, Constance BEYER, Michael D.
McLAUGHLIN, Daniel JONES



Enclosed: **UTILITY PATENT APPLICATION**

- *****
1. Specification (25 pages); including 3 independent claims and 9 claims total, 16 sheets of informal drawings (Figs. 1,2, 3A-B, 4, 5, 6A-C, 7, 8A-B, 9A-B, 10-12);
 2. Declaration and Power of Attorney;
 3. Recordation Form Cover Sheet and Assignment to TelecomXchange, Inc.; and
 2. Check for \$ 800.00.
- *****

OCT 22 1999

Date: October 22, 1999

CASE REF: 07710.0003-00000

JAB:jl

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Docket No.: 020748.0104 Atty.: KMC:sag DUE DATE: Tuesday, December 17, 2002
 Applicants: Charles A. PEYSER et al. U.S. Patent or Application Serial No.: 09/425,739
 Filing Date: October 22, 1999 Delivered Via: Handcarry (Speedy Courier)
 For: SYSTEMS AND METHODS FOR DISTRIBUTING TELECOMMUNICATION SERVICES VIA A NETWORK

The following has been received in the U.S. Patent Office on the date stamped hereon:

- | | | |
|--|--|---|
| <input type="checkbox"/> Specification _____ Pages | <input checked="" type="checkbox"/> Petition for Extension of Time (3 mos.) (x2) | <input type="checkbox"/> Restriction/Election Response |
| <input type="checkbox"/> Drawings _____ Sheets _____ Figs. | <input type="checkbox"/> Assignment _____ pages | <input checked="" type="checkbox"/> Response to Non-Final Office Action mailed 06/17/2002 and Attachments: Declaration and Power of Attorney and Filing Receipt |
| <input type="checkbox"/> Combined Declaration & Power of Attorney | <input type="checkbox"/> Priority Doc. () | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Utility Patent Application Transmittal | <input type="checkbox"/> Notice of Missing Parts (PTO COPY) | <input type="checkbox"/> Appeal Brief |
| <input type="checkbox"/> Continued Prosecution Application | <input type="checkbox"/> Preliminary Amendment | <input type="checkbox"/> Rule 132 Declaration |
| <input type="checkbox"/> Request for Continued Examination | <input type="checkbox"/> Letter to Official Draftsman | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Request for Reexamination Transmittal | <input type="checkbox"/> Request Approval of Drawing Changes | <input type="checkbox"/> Request for Approval of Proposed Drawing Changes |
| <input type="checkbox"/> Certificate of Mailing Under § 1.8 | <input type="checkbox"/> Red Lined Drawings _____ sheets | <input checked="" type="checkbox"/> Submission in Accordance of 37 CFR § 1.34 and MPEP § 405, Recognition for Representation/Attorney Not of Record |
| <input checked="" type="checkbox"/> Transmittal Form | <input type="checkbox"/> Request for Reexamination | |
| <input checked="" type="checkbox"/> Fee Transmittal (x2) | <input type="checkbox"/> Information Disclosure Statement | |
| <input checked="" type="checkbox"/> Check No. <u>1251</u> Amount \$460 | <input type="checkbox"/> PTO-1449 w/ Documents | |
| (Small Entity 3 rd Month Extension Fee) | <input type="checkbox"/> List of Related Cases | |
| | <input type="checkbox"/> Search Report | |

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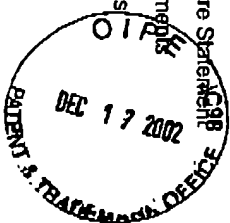
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| PATTON BOGGS LLP PH. 703-744-8000 8484 WESTPARK DR. MC LEAN, VA 22102 | | 68-25 66501 510 1850144157 DATE <u>December 17, 2002</u> | 1251 |
| PAY TO THE ORDER OF <u>Commissioner of Patents and Trademarks</u> | | \$ 460.00 | |
| Four Hundred Sixty and 00/100 | | DOLLARS <input checked="" type="checkbox"/> | |
| WACHOVIA Wachovia Bank, N.A. Vienna, VA 22182 | | <i>Marcie Cedar</i> | |
| MEMO | | 10510002531 1850144157 1251 | |

Docket No.: 020748.0104 Atty.: KMC:sag DUE DATE: Tuesday, December 17, 2002
 Applicants: Charles A. PEYSER et al. U.S. Patent or Application Serial No.: 09/425,739

Filing Date: October 22, 1999 Delivered Via: Handcarry (Speedy Courier)
 For: SYSTEMS AND METHODS FOR DISTRIBUTING TELECOMMUNICATION SERVICES VIA A NETWORK

The following has been received in the U.S. Patent Office on the date stamped hereon:

- ☐ Specification _____ Pages _____
- ☐ Drawings _____ Sheets _____ Figs. _____
- ☐ Combined Declaration & Power of Attorney
- ☐ Utility Patent Application Transmittal
- ☐ Continued Prosecution Application
- ☒ Request for Continued Examination
- ☐ Request for Reexamination Transmittal
- ☐ Certificate of Mailing Under § 1.8
- ☒ Transmittal Form
- ☒ Fee Transmittal (x2)
- ☒ Check No. 1251 Amount \$460
 (Small Entity 3rd Month Extension Fee)
- ☒ Petition for Extension of Time (3 mos.) (x2)
- ☐ Assignment _____ pages
- ☐ Priority Doc. ()
- ☐ Notice of Missing Parts (PTO COPY)
- ☐ Preliminary Amendment
- ☐ Letter to Official Draftsman
- ☐ Request Approval of Drawing Changes
- ☐ Red Lined Drawings _____ sheets
- ☐ Request for Reexamination
- ☐ Information Disclosure Statement
- ☐ PTO-1449 w/ Documents
- ☐ List of Related Cases
- ☐ Search Report
- ☐ Restriction/Election Response
- ☒ Response to Non-Final Office Action mailed 06/17/2002 and Attachments: Declaration and Power of Attorney and Filing Receipt
- ☐ Notice of Appeal
- ☐ Appeal Brief
- ☐ Rule 132 Declaration
- ☐ Issue Fee Transmittal
- ☐ Request for Approval of Proposed Drawing Changes
- ☒ Submission in Accordance of 37 CFR § 1.34 and MPEP § 405, Recognition for Representation/Attorney Not of Record



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